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10/574,170	01/10/2007	Bruno Bozionek	2003P13552WOUS	4107

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SIEMENS CORPORATION
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EXAMINER
LEATHERS, VERNIQUE T

ART UNIT	PAPER NUMBER
2456	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/574,170	BOZIONEK ET AL.
	Examiner	Art Unit	
	VERNIQUE LEATHERS	2456	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____ .

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>24-34</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>24-34</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>29 March 2006</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a) ☒ All　b) ☐ Some *　c) ☐ None of:

　　　　1. ☒ Certified copies of the priority documents have been received.

　　　　2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

　　　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>03/29/2006</u>.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

1.   Claims 24-34 are presented for examination. The effective filing date for

the subject matter defined in the pending claims in application 10/574170 is

March 29, 2006. Claim to foreign priority date is September 29, 2003. Claims 1-

23 and claims 35-43 were cancelled in applicant's amendment.

Response To Arguments

1.   The U.S.C. 101 rejection made by the examiner in the first of action on the

merits is withdrawn. Claims 35-41 have been cancelled by applicant.

2.   The U.S.C. 112 ¶2 rejection of claim 28 made by the examiner in the first

of action on the merits is withdrawn.

3.   The claim objection of claim 28 made by the examiner in the first of action

on the merits is withdrawn.

4.   Regarding the applicant's argument that the prior art does not teach

Claims 24-30 rejected under Section 102 as anticipated by Greenwood and 31-

34 under Section 103 based on Greenwood in view of Purpura , the applicant's

argument is moot in light of new ground of rejection necessitated by amendment.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

        A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a
foreign country or in public use or on sale in this country, more than one year
prior to the date of application for patent in the United States.

Claims 24 – 30 are rejected under 35 U.S.C. 102 (b) as being anticipated by

Greenwood et al. **(**US Patent No.: 5568181).

As per claim 24, Greenwood discloses a method for real time transmission of a

software component for a performance characteristic on demand the software

component transmitted to a terminal from a server in a packet network

(Greenwood, Figure 1 and Column 1 Lines 15- 20 states: A local area cache

storage facility 15 is connected to local area server 14 and provides a local

storage facility for all or portions of copies of video files from video library 11.

Video files in cache 15 can be delivered interactively and in real time to video

display stations such as station 17 on LAN 16.**),** the method comprising:

triggering a bandwidth test via a load request of the software component;

prior to initiating transmission of the software component, determining via the

bandwidth test if a present bandwidth is sufficient for transmission of the

demanded software within a specified time limit; **(**Greenwood, Figure 3 #33 and

Column 5 Lines 17- 23 states: determined whether or not adequate bandwidth is

available**)** and inhibiting the transmission of the demanded software if the

bandwidth test determines that the present bandwidth is insufficient for real time

transmission of the component. **(**Greenwood, Column 5 Lines 23-28 states: If

sufficient bandwidth is not available to transfer the video file in time to meet the

schedule, as determined by box 33, box 37 is entered to return a rejection of the

request, or an alternative schedule, to the requesting station. The process is

then terminated in stop box 40.**)**

As per claim 25, Greenwood discloses the method according to claim 24,

wherein a required bandwidth is calculated according to a specified upper limit

for a transmission time. **(**Greenwood,

> Column 6, Lines 27-34 states:
> If it is determined in decision box 43 that the full video file is present
> in the local cache, box 54 is entered immediately to give the user
> full access to the video file. The process is then terminated in stop
> box 55. If, however, only the preface is held in the local cache,
> decision box 44 is entered to determine whether there is sufficient
> bandwidth currently available in WAN 13 to transmit the balance of
> the video file at a rate consistent with the size of the preface. If
> there is currently insufficient bandwidth available, as determined by
> decision box 44, box 45 is entered to recalculate an appropriate
> preface size that matches the currently available bandwidth in WAN
> 13. **)**

As per claim 26, Greenwood discloses the method according to claim 25,

wherein the required bandwidth is available to the terminal and is included in the

request. **(**Greenwood,

> Column 6, Lines 27-34 states:
> If it is determined in decision box 43 that the full video file is present
> in the local cache, box 54 is entered immediately to give the user
> full access to the video file. The process is then terminated in stop
> box 55. If, however, only the preface is held in the local cache,
> decision box 44 is entered to determine whether there is sufficient
> bandwidth currently available in WAN 13 to transmit the balance of
> the video file at a rate consistent with the size of the preface.**)**

As per claim 27, Greenwood discloses the method according to claim 26,

wherein the server has access to the requested software component and the

required bandwidth. **(**Greenwood,

Figure 3 #33 and Column 5 Lines 17- 23 states:
If, however, the requested video file is not in the local cache when
the request is received, as determined by decision box 32, decision
box 33 is entered where it is determined whether or not adequate
bandwidth is available in WAN 13 to transmit the video file from the
library 11 to the local cache similar to cache 15 in FIG. 1, in
sufficient time to meet the schedule.)

Referring to claim 28, Greenwood discloses the method according to claim 27,

wherein the bandwidth test provides a positive test result if the bandwidth is

suitable for a real-time application thereby permitting transmission of the

component. **(**Greenwood, Figure 3 and

Figure 3 and Column 5, lines 29-34 and Lines 46-49 states:
If adequate bandwidth is available in WAN 13 to transmit the
requested video file from library 11 to the local cache, as
determined by decision box 33, decision box 34 is entered where it
is determined whether or not there is sufficient storage capability
remaining in the local cache (like cache 15 in FIG. 1) to hold the
requested video file.)

And

Figure 3 and Column 5, Lines 46-49 states:
If it is determined in box 36 that sufficient space can be
created to hold the requested video file, box 35 is entered where
the required
video file transfer is actually scheduled.)

Referring to claim 29, Greenwood discloses the method according to claim 27,

wherein information regarding the present bandwidth is made available by a

network resource manager and is updated on request by the server or after a

period of time. (Greenwood,

Column 5, lines 18-27 and Figures 1 and 3 states:
If, however, the requested video file is not in the local cache when
the request is received, as determined by decision box 32, decision
box 33 is entered where it is determined whether or not adequate
bandwidth is available in WAN 13 to transmit the video file from the

> library 11 to the local cache similar to cache 15 in FIG. 1, in
> sufficient time to meet the schedule. If sufficient bandwidth is not
> available to transfer the video file in time to meet the schedule, as
> determined by box 33, box 37 is entered to return a rejection of the
> request, or an alternative schedule, to the requesting station.)

Regarding claim 30, Greenwood discloses the method according to claim 29,

wherein the manager manages priorities for bandwidth demands, and wherein if

the required bandwidth is less than present bandwidth for the transmission, the

manager: determines a difference between the required bandwidth and the

present bandwidth; (Greenwood,

> Column 5, lines 18-27 and Figures 1 and 3 states:
> If, however, the requested video file is not in the local cache when
> the request is received, as determined by decision box 32, decision
> box 33 is entered where it is determined whether or not adequate
> bandwidth is available in WAN 13 to transmit the video file from the
> library 11 to the local cache similar to cache 15 in FIG. 1, in
> sufficient time to meet the schedule. If sufficient bandwidth is not
> available to transfer the video file in time to meet the schedule, as
> determined by box 33, box 37 is entered to return a rejection of the
> request, or an alternative schedule, to the requesting station.)

finds at least one process having a lower priority than a process requesting the

bandwidth and a bandwidth that at least equals the difference; and allocates the

bandwidth of the lower priority process to requesting process so that the

requesting process has a bandwidth at least equal to the required bandwidth.

(Greenwood,

> Column 6, lines 30-38 and Figure 4 states:
> If, however, only the preface is held in the local cache, decision box
> 44 is entered to determine whether there is sufficient bandwidth
> currently available in WAN 13 to transmit the balance of the video
> file at a rate consistent with the size of the preface. If there is
> currently insufficient bandwidth available, as determined by

decision box 44, box 45 is entered to recalculate an appropriate
preface size that matches the currently available bandwidth in WAN
13.**)**

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the
> prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not
> be negatived by the manner in which the invention was made.

Claims 31-34 are rejected under 35 U.S.C. 103 (a) as being unpatentable

over Greenwood et al. (US Patent No.: 5568181) in view of Purpura et al **(US**

20030043846 A1 hereafter; Purpura '846**)**.

As per claim 31, all the limitations of claim 29 have been discussed above.

However, Greenwood does not disclose if the required bandwidth is

less than an existing bandwidth for the transmission a message is sent to the

terminal, wherein the message includes a rejection or a rejection of the load

request.

On the other hand, Purpura '846 teaches if the required bandwidth is

less than an existing bandwidth for the transmission a message is sent to the

terminal, wherein the message includes a rejection or a rejection of the load

request. **(Purpura,**

Paragraph [0035], lines 3-13 and Figure 4 states:

When there is insufficient bandwidth available for the FTP session, the session is blocked, at step 344, and the user is instructed to try initiating the session at a later time. If the file size can not be established, the sub-routine determines, at step 348, whether there is a predetermined minimum amount of bandwidth available. If it is determined that there is a minimum amount of available bandwidth, the session is allowed, at step 352, otherwise the session is blocked and the user is notified that the session has been blocked, as indicated at step 356.**)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate if the required bandwidth is less than an existing bandwidth for the transmission a message is sent to the terminal, wherein the message includes a rejection or a rejection of the load request as taught by Purpura '846 in the invention of Greenwood in order to provide a system that determines whether sufficient available bandwidth exists to support the requested connection and sending messages to notify a user of insufficient bandwidth to support the connection so that the user is aware of the current status of the request.

Regarding claim 32, all the limitations of claim 31 have been discussed above. However, Greenwood does not disclose the message is shown to a user of a terminal.

On the other hand, Purpura '846 inherently teaches the message is shown to a user of a terminal. **(**Purpura,

Paragraph [0019], lines 6-9 states:
The users utilize client systems 18 to communicate with server 14. Initially users log on to server system 12 to establish a communication link with server 14 and enable access to network system 10 and the broadband signal.

Paragraph [0035], lines 17-27 and Figure 4 states:
When there is insufficient bandwidth available for the FTP session,
the session is blocked, at step 344, and the user is instructed to try
initiating the session at a later time. If the file size can not be
established, the sub-routine determines, at step 348, whether there
is a predetermined minimum amount of bandwidth available. If it is
determined that there is a minimum amount of available bandwidth,
the session is allowed, at step 352, otherwise the session is
blocked and the user is notified that the session has been blocked,
as indicated at step 356.)

It would have been obvious to one of ordinary skill in the art at the time of the

invention to incorporate the message is shown to a user of a terminal as taught

by Purpura '846 in the invention of Greenwood in order to provide a system that

notifies the user of bandwidth availability.

As per Claim 33, all the limitations of claim 31 have been discussed above.

However, Greenwood does not disclose generating a subsequent load request in

response to a temporary rejection of the load request. On the other hand,

Purpura '846 teaches generating a subsequent load request in response to a

temporary rejection of the load request. (Purpura,

Paragraph [0024], lines 1-6 and Figure 2 states:
If the user can not access the signal at the minimum speed, the
user is allowed to log on to server system 12 for local use only, as
indicated at step 120, and is notified that the user will be given
access to the signal as soon as there is sufficient bandwidth to
allow access at the minimum speed.

Paragraph [0025], lines 1-5 Figure 2 states:
When a user is logged on for local use only, server system 12
monitors the signal, as indicated at step 128, until there is sufficient
bandwidth available to provide the predetermined minimum data
transfer rate, then allows the user to fully log on, as indicated at
step 132.)

It would have been obvious to one of ordinary skill in the art at the time of the

invention to incorporate generating a subsequent load request in response to a

temporary rejection of the load request as taught by Purpura '846 in the

invention of Greenwood in order to provide a system that allows a user to

establish a connection at another time when there is sufficient bandwidth.

As per Claim 34, all the limitations of claim 31 have been discussed above.

However, Greenwood does not disclose wherein a permanent rejection is

generated by at least one temporary rejection or a comparison of the required

bandwidth with a maximum available bandwidth. On the other hand, Purpura

'846 teaches wherein a permanent rejection is generated by at least one

temporary rejection or a comparison of the required bandwidth with a maximum

available bandwidth. (Purpura,

> Paragraph [0035], lines 17-20 and Figure 4 states:
> When there is insufficient bandwidth available for the FTP session,
> the session is blocked, at step 344, and the user is instructed to try
> initiating the session at a later time.)

> Paragraph [0035], lines 23-27 and Figure 4 states:
> If it is determined that there is a minimum amount of available
> bandwidth, the session is allowed, at step 352, otherwise the
> session is blocked and the user is notified that the session has
> been blocked, as indicated at step 356.

It would have been obvious to one of ordinary skill in the art at the time of the

invention to incorporate wherein a permanent rejection is generated by at least

one temporary rejection or a comparison of the required bandwidth with a

maximum available bandwidth as taught by Purpura '846 in the invention of

Greenwood in order to provide a system that will the user access to the server

when sufficient bandwidth is available.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernique T. Leathers whose telephone number is (571)270-5738. The examiner can normally be reached on Monday through Thursday, from 7:00am to 5:30pm, Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571)272-3913. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V.T.L./
Vernique Leathers

Examiner, Art Unit 2456
March 29, 2009

/Bunjob Jaroenchonwanit/
Supervisory Patent Examiner, Art Unit 2456